

2008
Audit

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ELECTRONIC FRONTIER FOUNDATION, INC.
(A Nonprofit Public Benefit Corporation)

FINANCIAL STATEMENTS

**For the Year Ended
December 31, 2008**

ATTORNEY GENERAL'S OFFICE
PUBLIC CHARITIES DIVISION
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INDEPENDENT AUDITOR'S REPORT

To the Board of Directors
Electronic Frontier Foundation, Inc.
San Francisco, California

We have audited the accompanying statement of financial position of Electronic Frontier Foundation, Inc. (a nonprofit public benefit corporation), as of December 31, 2008, and the related statement of activities and cash flows for the year then ended. These financial statements are the responsibility of the Corporation's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Electronic Frontier Foundation, Inc. as of December 31, 2008, and the changes in its net assets and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

Our audit was conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The accompanying schedule of functional expenses is presented for the purposes of additional analysis and is not a required part of the basic financial statements of Electronic Frontier Foundation, Inc. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

Doran & Associates

September 25, 2009

ELECTRONIC FRONTIER FOUNDATION, INC.
(A Nonprofit Public Benefit Corporation)

STATEMENT OF FINANCIAL POSITION
December 31, 2008

ASSETS

| | |
|---|---------------------|
| Current assets: | |
| Cash and cash equivalents (Note 1) | \$ 1,528,190 |
| Prepaid expenses | 28,438 |
| Current portion of grants receivable (Note 2) | 750,000 |
| Inventory (Note 3) | <u>16,450</u> |
| Total current assets | 2,323,078 |
| Marketable equity securities (Note 4) | 3,351,123 |
| Grants receivable, net of current portion and present value discount (Note 2) | 231,483 |
| Deposits | 13,000 |
| Equipment and leasehold improvements, net of accumulated depreciation of \$191,699 (Notes 1 and 5) | <u>517,152</u> |
| Total assets | <u>\$ 6,435,836</u> |

LIABILITIES AND NET ASSETS

| | |
|---------------------------------------|---------------------|
| Current liabilities: | |
| Accounts payable and accrued expenses | \$ 42,318 |
| Accrued vacation liability (Note 6) | <u>76,803</u> |
| Total liabilities | <u>119,121</u> |
| Net assets (Note 7): | |
| Unrestricted net assets: | |
| Undesignated | 1,103,632 |
| Board-designated: | <u>3,575,297</u> |
| Total unrestricted net assets | 4,678,929 |
| Temporarily restricted net assets | <u>1,637,786</u> |
| Total net assets | <u>6,316,715</u> |
| Total liabilities and net assets | <u>\$ 6,435,836</u> |

The accompanying notes are an integral part of these financial statements.

ELECTRONIC FRONTIER FOUNDATION, INC.
(A Nonprofit Public Benefit Corporation)

STATEMENT OF ACTIVITIES
For the year ended December 31, 2008

| | Unrestricted | Temporarily Restricted | Total |
|--|---------------------|---------------------------|---------------------|
| SUPPORT, REVENUE AND TRANSFERS | | | |
| Public support: | | | |
| Foundation and corporation grants | \$ 508,042 | \$ 864,411 | \$ 1,372,453 |
| Donations and contributions | <u>811,158</u> | <u>100,000</u> | <u>911,158</u> |
| Total public support | <u>1,319,200</u> | <u>964,411</u> | <u>2,283,611</u> |
| Revenue: | | | |
| Memberships | 967,045 | - | 967,045 |
| Investment income (loss) (Note 4) | (784,871) | - | (784,871) |
| Litigation settlement | 66,605 | - | 66,605 |
| Loss on disposal of fixed assets, net (Note 5) | <u>(3,210)</u> | <u>-</u> | <u>(3,210)</u> |
| Total revenue | <u>245,569</u> | <u>-</u> | <u>245,569</u> |
| Net assets released from restrictions (Note 8) | <u>1,122,043</u> | <u>(1,122,043)</u> | <u>-</u> |
| Total support, revenue and transfers | <u>2,686,812</u> | <u>(157,632)</u> | <u>2,529,180</u> |
| EXPENSES | | | |
| Program services | 3,124,960 | - | 3,124,960 |
| General and administrative | 402,380 | - | 402,380 |
| Fundraising | <u>289,100</u> | <u>-</u> | <u>289,100</u> |
| Total expenses | <u>3,816,440</u> | <u>-</u> | <u>3,816,440</u> |
| Change in net assets | <u>(1,129,628)</u> | <u>(157,632)</u> | <u>(1,287,260)</u> |
| Net assets, beginning of year | 5,648,557 | 590,418 | 6,238,975 |
| Prior period adjustment (Note 9) | <u>160,000</u> | <u>1,205,000</u> | <u>1,365,000</u> |
| Net assets, beginning of year as restated | <u>5,808,557</u> | <u>1,795,418</u> | <u>7,603,975</u> |
| Net assets, end of year | <u>\$ 4,678,929</u> | <u>\$ 1,637,786</u> | <u>\$ 6,316,715</u> |

The accompanying notes are an integral part of these financial statements.

ELECTRONIC FRONTIER FOUNDATION, INC.
(A Nonprofit Public Benefit Corporation)

STATEMENT OF CASH FLOWS
For the year ended December 31, 2008

CASH FLOWS FROM OPERATING ACTIVITIES:

| | |
|---|-----------------------|
| Change in net assets | <u>\$ (1,287,260)</u> |
| Adjustments to reconcile change in net assets to net cash used by operating activities: | |
| Depreciation | 34,245 |
| Prior period adjustment | 1,365,000 |
| Unrealized loss on investments | 787,931 |
| Realized loss on disposal of fixed assets | 3,210 |
| Contribution of marketable equity securities | (159,487) |
| Changes in assets and liabilities: | |
| Grants receivable | (981,483) |
| Inventory | 20,393 |
| Accounts payable and accrued expenses | 15,385 |
| Accrued vacation liability | 41,815 |
| Total adjustments | <u>1,127,009</u> |
| Net cash used by operating activities | <u>(160,251)</u> |

CASH FLOWS FROM INVESTING ACTIVITIES:

| | |
|--|---------------------|
| Net sales of investments | 459,686 |
| Purchase of equipment and leasehold improvements | <u>(66,695)</u> |
| Net cash provided by investing activities | <u>392,991</u> |
| Net increase in cash and cash equivalents | 232,740 |
| Cash and cash equivalents, beginning of year | <u>1,295,450</u> |
| Cash and cash equivalents, end of year | <u>\$ 1,528,190</u> |

Supplementary information:

| | |
|--|-------------------|
| Non-cash transactions: | |
| Contribution of marketable equity securities | <u>\$ 159,487</u> |

The accompanying notes are an integral part of these financial statements.

ELECTRONIC FRONTIER FOUNDATION, INC.
(A Nonprofit Public Benefit Corporation)

NOTES TO FINANCIAL STATEMENTS
For the year ended December 31, 2008

NOTE 1 ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization - The Electronic Frontier Foundation, Inc., a Massachusetts nonprofit public benefit corporation, was founded in July 1990 to work in the public interest to promote online privacy, freedom of expression, and social responsibility. The Corporation's primary sources of revenue are grants and contributions from foundations, corporations and individuals.

Basis of Presentation - Resources are classified for accounting and reporting purposes into three classes of net assets, according to externally imposed restrictions:

Unrestricted net assets - Net assets that are not subject to any donor-imposed restrictions. This class also includes restricted gifts whose donor-imposed restrictions were met during the fiscal year.

Temporarily restricted net assets - Net assets resulting (a) from contributions and other inflows of assets whose use by the Corporation is limited by donor-imposed stipulations that either expire by passage of time or can be fulfilled and removed by actions of the Corporation pursuant to those stipulations, (b) from other asset enhancements and diminishments that are subject to the same kind of stipulations, and (c) from reclassification from (or to) other classes of net assets as a consequence of donor-imposed stipulations, their expiration by passage of time, or their fulfillment and removal by actions of the Corporation pursuant to those stipulations.

Permanently restricted net assets - Net assets resulting (a) from contributions and other inflows of assets whose use by the Corporation is limited by donor-imposed stipulations that neither expire by passage of time nor can be fulfilled or otherwise removed by actions of the Corporation, (b) from other asset enhancements and diminishments that are subject to the same kinds of stipulations, and (c) from reclassification from (or to) other classes of net assets as a consequence of donor-imposed stipulations.

There were no permanently restricted net assets as of December 31, 2008.

Method of Accounting - The financial statements of the Corporation are prepared using the accrual basis of accounting, which reflects revenue when earned and expenses as incurred.

Cash and Cash Equivalents - For purposes of the statement of cash flows, cash is defined as cash in demand deposit accounts as well as cash on hand. Cash equivalents are short term, highly liquid investments that are readily convertible to known amounts of cash and investments so near their maturity that the risk of changes in value due to changes in interest rates is negligible. These are generally investments with maturity dates within three months of the acquisition date.

Contributions - Contributions are recognized when the donor makes a promise to give to the Corporation that is, in substance, unconditional. Donor-restricted contributions are reported as increases in temporarily or permanently restricted net assets depending on the nature of the restrictions. When a restriction expires, temporarily restricted net assets are reclassified to unrestricted net assets.

ELECTRONIC FRONTIER FOUNDATION
(A Nonprofit Public Benefit Corporation)

NOTES TO FINANCIAL STATEMENTS
For the year ended December 31, 2008

NOTE 1 ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Equipment and Leasehold Improvements - The Corporation records equipment and leasehold improvements at historical cost or, if donated, at fair market value at the date of donation. Depreciation is determined on the straight-line method over the estimated useful lives ranging from 5 to 39 years.

Income Taxes - The Corporation is exempt from federal and state taxes under Section 501(c)(3) of the Internal Revenue Code and is considered by the IRS to be an organization other than a private foundation. In the opinion of management, there is no unrelated business income.

Estimates - The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

New Accounting Pronouncement, FAS-157, Fair Value Measurements - In September 2006, the Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 157 (FAS-157), *Fair Value Measurements*. FAS-157 defines fair value, establishes a framework for measuring fair value in accordance with GAAP, and expands disclosures about fair value measurements. The provisions of FAS-157 are effective for the Corporation for fiscal years beginning January 1, 2008. The adoption of FAS-157 did not have a material impact on the Corporation's financial statements.

NOTE 2 GRANTS RECEIVABLE

The Corporation has received several multi-year unconditional grants, which were receivable as follows at December 31, 2008:

| | |
|------------------------------|-------------------|
| Collectible in 2009 | \$ 750,000 |
| Collectible in 2010 | 250,000 |
| Less: present value discount | <u>(18,517)</u> |
| Net long-term portion | <u>231,483</u> |
| Total grants receivable, net | <u>\$ 981,483</u> |

It is the practice of the Corporation to expense uncollectibles only after exhausting all efforts to collect the amounts due. There is no allowance for doubtful accounts and management believes all amounts will be collected in full.

ELECTRONIC FRONTIER FOUNDATION
(A Nonprofit Public Benefit Corporation)

NOTES TO FINANCIAL STATEMENTS
For the year ended December 31, 2008

NOTE 3 INVENTORY

Inventory items are held for resale and promotion, are stated at the lower of cost or market value, and are determined on a first-in, first-out basis. Inventory at December 31, 2008, consisted of the following:

| | |
|---|------------------|
| T-shirts | \$ 8,435 |
| Cards, stickers, and other clothing items | <u>8,015</u> |
| | <u>\$ 16,450</u> |

NOTE 4 MARKETABLE EQUITY SECURITIES

The following are the major categories of marketable equity securities measured at fair value on a recurring basis during the year ended December 31, 2008, using quoted prices in active markets for identified assets (Level 1); significant other observable inputs (Level 2); and significant unobservable inputs (Level 3):

| <u>Description</u> | <u>Fair Value Measurements at December 31, 2008, Using</u> | | | <u>Total</u> |
|--------------------|--|--|--|---------------------|
| | <u>Quoted Price in Active Markets for Identical Assets (Level 1)</u> | <u>Significant Other Observable Inputs (Level 2)</u> | <u>Significant Unobservable Inputs (Level 3)</u> | |
| Mutual funds | \$ 1,964,324 | \$ - | \$ - | \$ 1,964,324 |
| Bonds | <u>1,386,799</u> | <u>-</u> | <u>-</u> | <u>1,386,799</u> |
| | <u>\$ 3,351,123</u> | <u>\$ -</u> | <u>\$ -</u> | <u>\$ 3,351,123</u> |

The following summarizes the investment income (loss) during the year ended December 31, 2008:

| | |
|------------------------------|---------------------|
| Unrealized loss | \$ (787,931) |
| Interest and dividend income | <u>3,060</u> |
| | <u>\$ (784,871)</u> |

NOTE 5 EQUIPMENT AND LEASEHOLD IMPROVEMENTS

Equipment and leasehold improvements consist of the following:

| <u>Equipment and leasehold improvements, at cost</u> | <u>Leasehold Improvements</u> | <u>Furniture and Equipment</u> | <u>Total</u> |
|--|-----------------------------------|------------------------------------|----------------|
| Balance, December 31, 2007 | \$ 500,706 | \$ 145,642 | \$ 646,348 |
| Additions | 43,993 | 22,702 | 66,695 |
| Disposals | <u>-</u> | <u>(4,192)</u> | <u>(4,192)</u> |
| Balance, December 31, 2008 | <u>544,699</u> | <u>164,152</u> | <u>708,851</u> |

ELECTRONIC FRONTIER FOUNDATION
(A Nonprofit Public Benefit Corporation)

NOTES TO FINANCIAL STATEMENTS
For the year ended December 31, 2008

NOTE 5 EQUIPMENT AND LEASEHOLD IMPROVEMENTS (Continued)

| | <u>Leasehold Improvements</u> | <u>Furniture and Equipment</u> | <u>Total</u> |
|---|-----------------------------------|------------------------------------|-------------------|
| <u>Accumulated depreciation</u> | | | |
| Balance, December 31, 2007 | 79,077 | 79,359 | 158,436 |
| Depreciation expense | 13,828 | 20,417 | 34,245 |
| Disposals | - | (982) | (982) |
| Balance, December 31, 2008 | <u>92,905</u> | <u>98,794</u> | <u>191,699</u> |
| Equipment and leasehold improvements, net | <u>\$ 451,794</u> | <u>\$ 65,358</u> | <u>\$ 517,152</u> |

NOTE 6 ACCRUED VACATION LIABILITY

Accumulated unpaid employee vacation benefits are recognized as liabilities of the Corporation. The value of accumulated vacation at December 31, 2008, was \$76,803.

NOTE 7 NET ASSETS

Unrestricted net assets:

The Corporation has unrestricted net assets that are not subject to donor imposed restrictions. The balance of unrestricted net assets at December 31, 2008, was \$4,678,929. Included in that amount are net assets that have been designated by the Board of Directors to be used for specific purposes, which totaled \$3,575,297 at December 31, 2008.

Temporarily restricted net assets:

These are contributions which were received with donor stipulations that limit the use of the assets for specific purposes and/or for specific time periods. Temporarily restricted net assets at December 31, 2008, are designated for the following uses:

| | |
|-------------------------------|---------------------|
| Prime Number Contest | \$ 487,786 |
| Civil Liberties Program | 200,000 |
| Time-Restricted | 50,000 |
| E-Voting (EVN) | 50,000 |
| Intellectual Property Program | 200,000 |
| Public Interest Advocate | 100,000 |
| Educational Work | 50,000 |
| Endowment Campaign | <u>500,000</u> |
| | <u>\$ 1,637,786</u> |

ELECTRONIC FRONTIER FOUNDATION
(A Nonprofit Public Benefit Corporation)

NOTES TO FINANCIAL STATEMENTS
For the year ended December 31, 2008

NOTE 8 NET ASSETS RELEASED FROM RESTRICTION

During the year ended December 31, 2008, temporarily restricted funds were used for their restricted purposes or were held for specific time periods, and they were released to unrestricted net assets:

| | |
|------------------------------------|-----------------------|
| Patent Busting Project | \$ 22,632 |
| FLAG Project | 155,000 |
| Summer Intern Program | 10,000 |
| EFF Europe / International Program | 150,000 |
| Copyfiltering Meeting | 14,411 |
| Civil Liberties Program | 200,000 |
| E-Voting (EVN) | 85,000 |
| Total Election Awareness | 10,000 |
| Intellectual Property Program | 225,000 |
| Endowment Campaign | <u>250,000</u> |
| | <u>\$ 1,122,043</u> |

NOTE 9 PRIOR PERIOD ADJUSTMENT

During the year ended December 31, 2008, it was discovered that several multi-year grants received in 2007 were unconditional and should have been recorded in full as of December 31, 2007. As a result, the balance of each grant was recorded in 2008 as a prior period adjustment, increasing unrestricted net assets by \$160,000 and temporarily restricted net assets by \$1,205,000, for a total prior period adjustment of \$1,365,000.

NOTE 10 LEASES

The Corporation leases its offices in San Francisco, California under two non-cancelable operating leases that expire July 31, 2010. The Corporation also occupies offices in Washington, DC and New Haven, CT under short-term leases. EFF had also entered into a lease agreement to expand its San Francisco office. The lease had a term of two years commencing July 1, 2008, and required monthly rental payments of \$1,500. Subsequent to year-end, the Corporation determined that this additional office space was not needed and on May 27, 2009, the landlord released EFF from the new lease obligation. Rent expense for the leases for the fiscal year ended December 31, 2008, was \$148,619.

The estimated future minimum payments for the long-term leases for the current and succeeding year are as follows:

| | |
|---------------------|-----------------------|
| <u>December 31,</u> | |
| 2009 | \$ 131,803 |
| 2010 | <u>78,817</u> |
| | <u>\$ 210,620</u> |

ELECTRONIC FRONTIER FOUNDATION
(A Nonprofit Public Benefit Corporation)

NOTES TO FINANCIAL STATEMENTS
For the year ended December 31, 2008

NOTE 11 TAX SHELTERED ANNUITY

The Corporation has established a 403(b) deferred income plan for all eligible employees. Voluntary contributions are made by employees who choose to participate to the extent permissible by law. During the year ended December 31, 2008, the Corporation matched up to 10% of employee contributions to the plan, for a total of \$19,132.

NOTE 12 CONTINGENCIES

As of December 31, 2008, the Corporation had exceeded the Federal Depository Insurance Corporation limit of \$250,000 on its depository accounts. At December 31, 2008, the Corporation had approximately \$228,000 on deposit in excess of federally insured limits.

NOTE 13 RISKS, UNCERTAINTIES AND CONCENTRATIONS

The Corporation relies on a significant amount of funding received in the form of donations and grants from individuals and foundations as well as investment income to support its operations. The current global financial markets and discussions of a U.S. economic downturn may have an impact on the level of funding provided by these funding sources and the market value of marketable equity securities held by the Corporation. While it is impracticable to determine the impact of these events, management is taking steps to address potential changes in funding levels and reduce the Corporation's exposure to impact from these events.

SUPPLEMENTARY INFORMATION

ELECTRONIC FRONTIER FOUNDATION, INC.
(A Nonprofit Public Benefit Corporation)

SCHEDULE OF FUNCTIONAL EXPENSES
For the year ended December 31, 2008

| | Program Services | General and Administrative | Fundraising | Total |
|----------------------------|---------------------|-------------------------------|-------------------|---------------------|
| Salaries and benefits | \$ 2,281,283 | \$ 268,386 | \$ 134,193 | \$ 2,683,862 |
| Professional fees | 239,019 | 15,257 | - | 254,276 |
| Office expenses | 33,060 | 6,612 | 4,408 | 44,080 |
| Telephone | 21,728 | 6,427 | 2,448 | 30,603 |
| Postage and delivery | 4,583 | 4,583 | 10,760 | 19,926 |
| Occupancy | 89,171 | 37,155 | 22,293 | 148,619 |
| Membership | - | 6,782 | 77,991 | 84,773 |
| Maintenance and repairs | 2,235 | 931 | 559 | 3,725 |
| Promotion and publications | 7,714 | - | 1,810 | 9,524 |
| Travel and conferences | 66,228 | - | 16,557 | 82,785 |
| Depreciation | 20,547 | 8,561 | 5,137 | 34,245 |
| Insurance | 52,416 | 17,472 | - | 69,888 |
| Program expenses | 226,401 | - | - | 226,401 |
| Bank and merchant fees | 25,168 | 12,584 | 12,584 | 50,336 |
| Other expenses | <u>55,407</u> | <u>17,630</u> | <u>360</u> | <u>73,397</u> |
| Total expenses | <u>\$ 3,124,960</u> | <u>\$ 402,380</u> | <u>\$ 289,100</u> | <u>\$ 3,816,440</u> |